

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

UNITED STATES OF AMERICA
upon the relation and for the use of the
TENNESSEE VALLEY AUTHORITY,
Plaintiff,

v.

No. 1:20cv47-SA-DAS

AN EASEMENT AND RIGHT-OF-WAY
OVER 1.02 ACRES OF LAND, MORE
OR LESS, IN OKTIBBEHA COUNTY,
MISSISSIPPI, and
ELBERT J. DAY, JR.,
GARY LYNN DAY,
BRENDA J. HUNT,
Defendants.

COMPLAINT

1. This is an action of a civil nature brought by the United States of America upon the relation and for the use of the Tennessee Valley Authority for the taking of property under the power of eminent domain and for the ascertainment and award of just compensation to the owners and parties in interest.

2. The authority for the taking is the Tennessee Valley Authority Act of 1933, *as amended*, 16 U.S.C. §§ 831 et seq.

3. The public use for which the property is taken is the erection, operation, and maintenance of electric power transmission circuits and communication circuits.

4. The property interest to be acquired is a permanent easement and right-of-way.

5. The easement and right-of-way herein condemned is described in Attachment 1 hereto and made a part hereof.

6. The persons known to the Plaintiff to have or may claim an interest in said property are as follows:

Elbert J. Day, Jr., Gary Lynn Day and Brenda J. Hunt each own an undivided 1/3 interest in fee simple as tenants in common by virtue of a deed recorded in Deed Book 2016, page 6278, in the office of the Chancery Court Clerk of Oktibbeha County, Mississippi.

County and school taxes for 2020 are liens on said property.

7. A Declaration of Taking is being filed contemporaneously herewith.

WHEREFORE, the Plaintiff demands that:

(1) An Order be issued putting the Tennessee Valley Authority as agent of the United States of America into immediate possession of the property condemned.

(2) Just compensation for the property taken be ascertained in accordance with Rule 71.1(h) of the Federal Rules of Civil Procedure.

(3) A Judgment be entered confirming the vesting of title to the interests sought to be condemned in the United States of America by virtue of the Declaration of Taking filed herewith.

(4) The Plaintiff have such other relief as may be lawful and proper.

Respectfully submitted,

s/Michael V. Bernier

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Attorney for Plaintiff

TRACT NO. WTBJ-19

A permanent easement and right-of-way, consisting of the perpetual right to enter and to erect, maintain, repair, rebuild, operate, and patrol lines of transmission line structures with sufficient wires and cables for electric power circuits and communication circuits, and all necessary appurtenances, including guy wires, in, on, over, and across said right-of-way, together with the perpetual right to clear said right-of-way and keep the same clear of structures (including but not limited to flagpoles, solar panels, buildings, signboards, billboards), trees, brush, stored personal property, and fire hazards, to destroy or otherwise dispose of such trees and brush; to prevent the drilling or sinking of wells within the right-of-way; and to remove, destroy, or otherwise dispose of any trees located beyond the limits of said right-of-way which in falling could come within five feet of any transmission line structure or conductor located thereon, the Tennessee Valley Authority to remain liable for any direct physical damage to the land and annual growing crops resulting directly from the operations of the construction and maintenance forces of its agents and employees in the erection and maintenance of or in exercising a right of ingress and egress to said transmission line structures, all upon, under, over, and across the following-described land:

TRACT NO. WTBJ-19

A strip of land located in the Southwest 1/4 of Section 6, Township 18 North, Range 15 East, Oktibbeha County, State of Mississippi, as shown on a map entitled "West Point – Midway Transmission Line Tap to Blackjack, Miss.," drawing LW-3226, sheet P8B, R.0, a reduced scale copy of which is attached to the Declaration of Taking filed herein, the said strip being 100 feet wide, lying 50 feet on each side of the centerline of the location and the end boundaries of the strip being more particularly described as follows:

Commence at the Southwest corner of 4-County Electric Power Association as shown on said LW-3226, a common corner of Elbert J. Day Jr., et al.; thence in a westerly direction with the north right-of-way of Blackjack Road, 58.86+/- to a point on the centerline of the location of the transmission line at survey station 126+63.64, and being the Point of Beginning.

The said strip being bounded on the south end by the said right-of-way line; thence with the centerline of the location N. 00° 31' 22" W., 384.79 feet to a point of intersection on the centerline of the location at survey station 130+48.43 having the state plane coordinates of North: 1436270.15 East: 1003491.99; thence with the centerline of the location N. 89° 29' 27" E., 58.87 feet to a point of ending on the centerline of the location at station 131+07.3, and on the property line of the 4-County Electric Power Association Blackjack, Miss. Substation, the said strip being bounded on the east end by the said road right-of-way, the ends of said strip are shortened or extended to said property lines.

The above-described strip of land includes the centerline of the transmission line location for a net distance 443.66 feet and containing 1.02 acres, more or less.

TRACT NO. WTBJ-19

Furthermore, the permanent easement rights include the perpetual right to install, maintain, and replace guy wires and necessary appurtenances outside the right-of-way for the transmission line structure located at survey station 130+48.43.

Furthermore, the above-described easement rights are acquired with respect to such appurtenant right, title, and interest as the owner of the above-described land may have in Tract WTBJ-18, Oktibbeha County, Mississippi (Blackjack Road), the adjoining road right-of-way shown on the map referenced above.

The above-described parcel of land is lying in the Southwest 1/4 of Section 6, Township 18 North, Range 15 East, Oktibbeha, State of Mississippi.

The coordinates, distances and directions of lines are referred to the Mississippi East 2301 Coordinate System, NAD83 (2011) Horizontal Datum, NAVD88 (Geoid12A) Vertical Datum.

Record landowner as of the date of the filing of the Declaration of Taking —
Elbert J. Day, Jr., Gary Lynn Day and Brenda J. Hunt (Deed Book 2016, page 6278)

Tax Map and Parcel No.
143-06-033.06
PPIN 16392

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